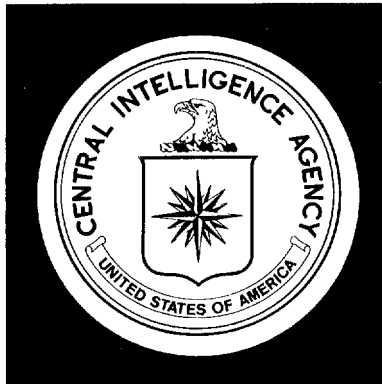


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*Alleged US and GVN Violations of the
27 January Paris Agreement*

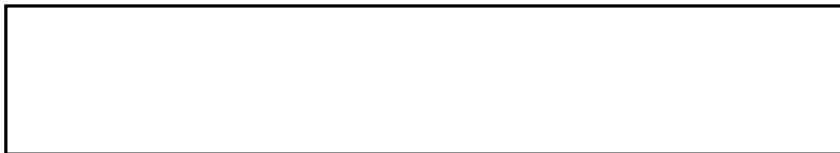
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9 May 1973
No. 1648/73

WARNING

This document contains information affecting the national defense of the United States, within the meaning of Title 18, sections 793 and 794, of the US Code, as amended. Its transmission or revelation of its contents to or receipt by an unauthorized person is prohibited by law.



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ALLEGED US AND GVN VIOLATIONS OF THE
27 JANUARY PARIS AGREEMENT

1. Violations of the Paris "Agreement on Ending the War and Restoring Peace in Vietnam" and accompanying protocols imputed to the US and South Vietnam by the DRV and PRG are too numerous to itemize. Alleged US and GVN violations of the cease-fire provisions alone total more than 80,000. Only major Communist charges and allegations of violations will be discussed in detail here. The charges are mainly those cited in the DRV note of 16 April, a Vietnam News Agency (VNA) compendium released in Hanoi on 24 April, and a DRV Foreign Ministry statement of 27 April, but some charges aired elsewhere, including in PRG propaganda, are included.

2. Specific charges by the DRV and PRG are listed here under the appropriate article of the cease-fire agreement. Where a charge is actually an alleged violation of a corresponding article of the protocols, the charge will be addressed under the principal article in the cease-fire agreement itself, citing the appropriate protocol article as needed.

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ARTICLE 1

1. This article specifies that the US and other countries respect Vietnam's independence, sovereignty, territorial integrity, etc., as defined in the 1954 Geneva agreements.

2. No violations of this article have been alleged.

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ARTICLE 2

1. The article declares that a cease-fire shall be observed throughout South Vietnam and that the US will also:

--halt all military activities against DRV territory,

--halt mining operations and remove or deactivate all mines.

2. Charges

- a. The VNA compendium and other Communist statements accuse the US of "backing" the GVN in violations of the cease-fire.

Comment: Cease-fire violations are discussed under Article 3. The US has consistently urged the GVN to comply with the cease-fire provisions.

- b. Hanoi alleges that the US is violating Article 2 by resuming reconnaissance flights over its territory. Specifically, it protested overflights twice on 19 April and three times on 24 April. Earlier, the DRV foreign ministry on 31 March alleged aircraft overflew Quang Binh and Ha Tinh provinces on 29 and 31 March and VNA charged similar overflights on 12 and 13 March.

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- c. The DRV alleges that suspension of mine clearing operations is in violation of Article 2.

Facts: The US publicly announced on 16 April that its mine clearing task force was being withdrawn prior to declaring the navigation hazard posed by the mines to be ended.

- d. The DRV charged, in its 16 April note, that the US had deliberately delayed the mine-clearing operations, thereby prolonging the blockade of DRV waters.

Facts: US mine sweeping operations did not, in fact, get under way for the first few weeks after signing of the cease-fire agreement.

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ARTICLE 3

1. This article concerns maintenance of the cease-fire, and requires the two South Vietnamese parties to:

--cease all offensive activities, terrorism, and reprisals; remain in place; delineate territory through the Joint Military Commission as well as the modalities of stationing forces;

--and, as elaborated in Articles 1-6 of the Protocol on the Cease-fire both parties are to order compliance by their military and police forces; prohibit major redeployments; prohibit armed patrols in one another's areas and overflights by bombers and fighters; avoid hindering civilian movements; delineate military corridors; arrange local cease-fires; and remove land mines and other obstructions.

2. Charges: Hanoi Radio on 24 April accused the GVN "with the backing of the US," of more than 80,000 individual cease-fire violations which included:

--almost 20,000 "nibbling operations" and the construction of over 450 outposts;

--almost 25,000 artillery attacks;

--over 4,800 "bombings and strafings";

--over 30,000 "police operations";

--attacks including 18 division-sized operations; 97 regimental-sized, and over 3,000 of battalion-size.

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Comment: The GVN refuses to cede any new territory or populace to the Communists and has continued military operations. The majority of these have been in reaction to the Communist offensive launched on the eve of the cease-fire, or have been designed to pre-empt other real or expected enemy initiatives. With limited exceptions, however, the military initiative in most areas lies with the Communists, and thus South Vietnamese commanders feel themselves compelled to react.

a. Nibbling Operations and Outpost Construction:

Facts: In some instances, the South Vietnamese since the cease-fire have conducted military operations into areas contested or controlled by the Communists before 27 January. Among these are:

- Giong Trong District, Kien Hoa Province;
- Cai Lay and Cai Be districts, Dinh Tuong Province;
- along local Route 2, Phuoc Tuy Province;
- along Route 7B, Phu Yen Province;
- along both sides of the Ba Xuyen/Bac Lieu province borders.

Comment: These actions have involved the commitment of substantial government military resources, including air and artillery. Often outposts have been constructed or shifted to nearby areas where none were previously.

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- b. Large-Scale Operations: The Communists have accused the GVN of several major cease-fire violations:

--a division-sized assault on the area at the mouth of the Cua Viet River in Quang Tri Province from 28-29 January.

Facts: South Vietnamese Marines began the Cua Viet operation on 27 January, before the cease-fire; they claimed to have reached their objective several hours before the 27 January deadline went into effect. The Marines reported little fighting on the day of 28 January, during which time the Marines reportedly talked face-to-face with North Vietnamese Army officers who apparently used the opportunity to assess the Marine defenses and firepower. The Marines then were hit hard that night. The Communists counterattacked successfully and drove the Marines back to their original positions over the next several days;

--a multi-battalion operation against the Sa Huynh area in southern Quang Ngai Province from 5-20 February.

Facts: The North Vietnamese attempted to seize Sa Huynh in an operation they launched on 27 January. They entered the village itself after the cease-fire went into effect on 28 January, but were subsequently driven out by South Vietnamese forces

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in heavy fighting that lasted for three weeks. The GVN complained to the ICCS that the Communist attack on Sa Huynh was a violation, and an ICCS investigation by the Region II Headquarters in Da Nang confirmed it;

--a multi-regimental assault in the Dai Loc area of Quang Nam Province (the "Arizona Territory") from 11 February to 28 March.

Facts: This area has been bitterly contested for years. Although the GVN committed more than a regiment to this particular area of operations, the effort could not be characterized as a "multi-regimental" assault. It was more an effort to consolidate the somewhat shaky GVN control over the area and to resettle former inhabitants there. The fighting can, however, be considered a result of GVN initiatives and could thus be considered a violation of the cease-fire;

--a multi-battalion operation in Phu Cat District, Binh Dinh Province, from 1-10 March.

Facts: The South Vietnamese have mounted a number of such operations in this area--usually referred to as De Gi--where the Communists sought to seize a shallow-draft port together with the surrounding area. The Communists first attacked at 0300 on 28 January

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were driven out the next day. The South Vietnamese, using air and artillery extensively, inflicted heavy casualties on the Communists and have since won back most of the area. Sporadic contacts continue in the general vicinity.

--bombing of Duc Co "only one hour after the announcement" on 19 February that it had been chosen as a PRG point-of-entry.

Facts: The ICCS meeting in a plenary session in Saigon on 26 March unanimously found the GVN guilty of the 19 February bombing;

--a multi-battalion operation in Kontum Province, along Route 14 in the Chu Pao Pass area, from 28 January to 22 March.

Facts: The NVA 95B Regiment seized portions along the high ground overlooking Route 14 between Kontum and Pleiku cities at the Chu Pao Pass sometime during the period 27-28 January; it has never been precisely established when. The highway was open 27 January and was closed by the Communists on the morning of 28 January. The South Vietnamese mounted a major military clearing operation in the area on the morning of 28 January to dislodge the North Vietnamese and in early March reopened the key highway. Its permanent interdiction would probably have ultimately led to the Communist capture of Kontum City.

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c. Artillery and Air Strikes:

Facts: Heavy and sometimes indiscriminate use of artillery fire and tactical air strikes were noted in the early phases of the cease-fire. Since 3 March, when sharp restrictions were placed on the Army by President Thieu through the issuance of stricter rules of engagement, the use of air and artillery has been greatly reduced, in some instances to the point where local commanders have complained bitterly.

--RVNAF firing of artillery has dropped from a daily average in January of 38,000 rounds to around 6,000 currently;

--VNAF tactical air strikes averaged 150-299 sorties daily when the cease-fire began; they currently average about 88 per day;

--some of these reductions have been due to an over-all decrease in military action, especially in Military Regions 1-3, as well as a conscious attempt to comply with the agreement.

d. Force Deployments:

Facts: With regard to the "standstill" provision, the GVN has felt little or no restraint in moving elements of its armed forces from place to place. This has, for the most part, been in response to the Communist cease-fire "offensive" and subsequent local actions:

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--regiments of the ARVN 9th Division have deployed into and out of the Hong Ngu area in the north-central delta in response to the Communist main force offensive in that area designed to interdict convoys to Phnom Penh and ultimately to control this strategic border infiltration point;

--Marine elements have been withdrawn from the front lines in northern Quang Tri Province, and Marine and Airborne areas of operation have been adjusted regularly to meet tactical requirements;

--the large-scale operations discussed above (under 2b) have required the movement of RVNAF troop units.

e. Police Actions:

Facts: Few details are available on South Vietnamese police operations against Viet Cong agents.

--Police arrest statistics are given under Article 11, Para 2c. Roundups were extensive in the period between the Communist Easter offensive in 1972 and the signing of the cease-fire agreement;

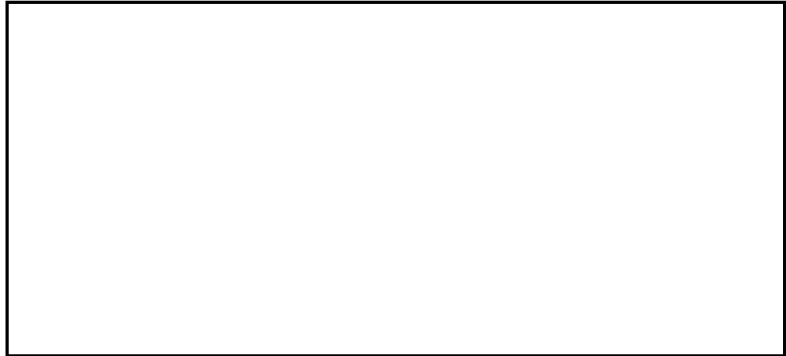


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f. Territorial Delineation:

Comment: Saigon has made no serious effort to work out a delineation of territory with the PRG, and indeed, refuses to acknowledge Communist authority except over a very few major enemy redoubts and base areas.

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Comment: Concerning overflights by fighters and bombers, the Communists have charged both the US and GVN with violating the agreement. The Communists consider overflights by reconnaissance aircraft to be a "hostile act." This is clear from the fact they will shoot at any aircraft thus engaged. The US takes the position that reconnaissance over South Vietnam is not prohibited by the Paris Agreement.

h. Obstructions to Civilian Movement:

The Communist radio on 24 April charged the South Vietnamese with restricting freedom of movement of people within the country. (This point is also addressed under Article 11.)

Facts: This is true in the sense that security controls instituted before the cease-fire generally remain in effect;

--checkpoints on streets and highways are designed to inhibit the movement of Communist agents but do not greatly inhibit the movement of South Vietnamese citizens on legitimate business;

--the GVN has issued orders to keep refugees and others from moving back into their former homelands that have fallen under Communist control since the start of the cease-fire.

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i. Contacts by Local Commanders:

Facts: The GVN has discouraged local commanders meeting with their Communist counterparts to arrange an end to hostilities.

--local accommodations have been reported in Kontum and Pleiku provinces, however, and undoubtedly exist informally elsewhere;

--at Tonle Cham Ranger camp in northern Tay Ninh Province, the GVN has offered to have the local commanders meet only in the presense of an ARVN TPJMC Colonel to monitor the exchange; the Communists have refused;

Comment: At issue basically is an interpretation of the agreement to determine at what level of command the requirement would be met. Official South Vietnamese policy authorizes negotiations between field commanders only at the corps and division levels.

The South Vietnamese are wary of authorizing any but closely monitored contacts with the Viet Cong, fearing that such contacts will degrade its chain of command and erode the fighting spirit of its troops.

j. Removal of Mines:

Facts: Neither side has taken steps to remove land mines and other esoteric forms of defense.

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- So-called "mechanical ambushes" are still being used by South Vietnamese regional force units in some sections of the country, primarily against local Viet Cong units;
- Communist mines and booby traps have been responsible for numerous deaths of civilians and government soldiers working or on patrol near areas controlled by the Viet Cong;
- Such devices may never be fully deactivated as many were improvised and make-shift without specific locator plans, such as around remote government border outposts and in Communist jungle enclaves.

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ARTICLE 8

1. The article requires that, within 60 days, the two sides:

- exchange all captured military personnel and foreign civilians;
- account for missing and dead; and
- resolve, if possible within 90 days, the question of returning captured or detained civilians.

The Protocol on Captured Personnel concerns procedures for the exchange of prisoners and prisoner information, humane treatment, security for reception teams, and supervision by ICCS and JMC teams.

2. Charges:

- a. The GVN has failed to return to the PRG all military personnel captured and held by it. Hanoi claims that South Vietnam has returned only 26,000 of 40,000 military it held.

Facts: The GVN released nearly 27,000 military prisoners to the Communists within the first 60 days, including some 10,000 NVA, 15,000 Viet Cong, and some 600 regroupes. Fewer than 600 Communist military prisoners are still being held, and over 200 of these have refused repatriation. The latter will eventually be released through the government's rallier program.

- b. The GVN has deliberately declared Communist prisoners to be ralliers so they need not be returned.

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Facts: Some 11,000 prisoners were released shortly before the cease-fire agreement was signed as "ralliers" to the GVN.

Comment: There was a reclassification of GVN military and civilian detainees prior to the agreement, with certain prisoners becoming ralliers and various civilians being categorized as Communist criminals, common criminals, or lesser offenders. This apparently was done to reduce the number of prisoners to be returned to the Communists. As of 1 May, the GVN claimed to hold 5,081 Communist criminals and another 27,000 common criminals. There is no information as to the precise offenses they originally committed. A total of 750 of the Communist criminals are currently being exchanged for 637 civilian prisoners of the PRG.

- c. The GVN has understated the number of civilian detainees, who, the Communists claim total some 200,000.

Facts: As of 1 May, the government was believed to hold over 30,000 civilian prisoners, of whom it designated 5,081 as Communist criminals to be returned to the PRG. About 8,000 civilian "lesser offenders" were released from GVN jails prior to the signing of the agreement.

Comment: Saigon's record on the prisoner issue is hard to document, partly because of poor bookkeeping and

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because of frequent relabeling. For example, almost 1,200 civilian detainees, including nearly 700 Communist supporters, were granted amnesty in late March, but it is not at all clear if all were released in fact or what the original charges against them were.

- d. The GVN has not provided information about missing and dead, and has treated inhumanely the prisoners it does hold.

Comment: There is no evidence to support widespread PRG inspired tales that the government has deliberately and systematically mistreated its captives. Prison conditions in the South are spartan; mistreatment has occurred, but is now less prevalent than in the past, particularly since the cease-fire was signed.

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ARTICLE 9

1. The article concerns US obligations to respect South Vietnamese rights.

2. No specific violations of the article are alleged.

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ARTICLE 10

1. This article concerns undertakings of the two South Vietnamese parties to respect the cease-fire and settle differences by negotiation.

2. No specific violations of the article are alleged.

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ARTICLE 11

1. The article calls on the South Vietnamese parties to achieve national reconciliation, avoid reprisals, and ensure democratic liberties.

2. Charges:

- a. The Communists say that the GVN is maintaining in force wartime laws and regulations, and has enacted many new "fascist laws."

Facts: GVN wartime laws and regulations are still in force, but Saigon has enacted no new internal security laws since the Paris Agreement was signed.

--60 decree laws were promulgated by President Thieu under his special powers during 1972. Many were enacted in late December. Nine decrees relate to internal security.

--There have been several new decrees or executive orders promulgated since 27 January by the office of the presidency or prime minister that relate to national security.

These include:

- an order delegating to the Deputy Interior Minister certain powers to review cases and sentences of VC suspects.

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- a 15 March presidential decree changing the name of the pacification council to Reconstruction and Development Council.

Comment: All of these decrees are designed to strengthen the GVN for the political struggle and are thus irritants to the Communists.

- b. The GVN refuses to allow the people freedom of movement, of residence, of work, of the press, of gathering, etc.

Facts: There are restrictions on the press, on freedom of movement (discussed also under Article 3), and of assembly. Most of these have been in effect throughout the war (such as checkpoints, curfews, etc.) and some were tightened by the 1972 decrees, including press and political party laws. The GVN constitution, under Article 4, also prohibits all activities designed to carry out Communism.

Comment: Many of these controls are designed to prevent free circulation by Communist agents and to inhibit Communist terrorism. The freedom of movement and freedom of residence restrictions are especially inhibiting to Viet Cong political struggle activity. The GVN has issued orders, for instance, to persuade refugees or others from moving to Communist areas.

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- c. The GVN has "intensified its measures of constraint and coercion," and has launched "tens of thousands" of police actions since the agreement.

Facts: There has been no wave of terror since the cease-fire; if anything, there has been a relaxation of security measures such as curfews in most cities. Arrests related to national security continue, but these are not prohibited by the agreement. Police statistics show monthly arrest totals as:

<u>Month</u>	<u>Arrests</u>
November 1972	<u>1,133</u>
December 1972	828
January 1973	<u>676</u>
Total	<u>2,637</u>
February 1973	346
March 1973	353
April 1973	<u>281</u>
Total	<u>980</u>

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ARTICLE 12

1. This article calls for consultations between the two South Vietnamese parties to set up the National Council of National Reconciliation and Concord (NCNRC) and to sign an agreement on internal affairs as soon as possible; charges the Council, among other duties, with organizing free and democratic elections, including the procedures and modalities of such elections; requires the two parties to "agree" on the institutions to be set up by elections.

2. Charges:

- a. Communist propaganda alleges that GVN is stalling on implementing Article 12 including:

--delaying establishment of the NCNRC and slighting the proposed "third segment" of the Council,

--proposing to hold elections under its own constitution, its own laws, and its current regime.

Facts: The Paris Agreement sets no timetable for establishing the NCNRC and only urged the parties to do their utmost to reach agreement by X plus 90. Both sides have stalled in the bilateral talks in Paris, but the GVN record has been more forthcoming as to agenda and the specifics of a proposed agreement than that of the PRG. The proposed PRG agenda, however, followed more closely the order of Articles 11 through 13.

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Comment: The GVN has publicly downplayed the existence of any third force, within South Vietnam or among the exiles, entitled to equal representation on the NCNRC; it proposes, instead, that the two sides mutually agree on the composition of the "third segment." The GVN 10-point proposal of 25 April accepts the role of the NCNRC in arranging the election, but indeed implies, without so specifying, that the election will be held under GVN authority and the GVN constitution.

- b. Communist propaganda charges that the GVN is violating Article 12 by organizing and holding village council elections.

Facts: Saigon is proceeding with such elections and the first have taken place. It is also preparing to hold Senate elections scheduled for late August. GVN electoral laws will apply.

Comment: Article 12 asserts that the NCNRC is charged with the "modalities" of "general elections." Village council elections are being held on a province-by-province basis. The question of the council's role in the current and forthcoming elections is possibly moot, but Article 12 says nothing about what applies before the NCNRC is established. If the GVN were to cede a violation of Article 12 on this point, it would in effect cede a veto to the Communists on further constitutional functioning of the government.

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ARTICLE 13

1. This article calls for the two parties to "settle the question of Vietnamese armed forces in South Vietnam" in a spirit of reconciliation without foreign interference, including force reductions and demobilization as soon as possible.
2. Charges: The Communists have accused the GVN of raising this issue only in order to delay progress on such articles as 11 and 12, but have alleged no violations.
3. Comment: The GVN has attempted to put Article 13 on the agenda of the Paris talks. Its 10-point proposal of 25 April makes restoration of democratic liberties and the holding of elections contingent on the withdrawal, in phases, of North Vietnamese troops. Since this requirement is unacceptable to the Communists, GVN conditions could give the PRG grounds for charging that Saigon is not sincerely doing its "utmost" to achieve reconciliation or carry out Articles 11 and 12.

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ARTICLE 14

1. This article calls for a foreign policy of peace and independence in South Vietnam, and economic assistance from any country without political conditions.
2. No allegations have been made regarding Article 14.

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ARTICLE 15

1. This article concerns respect for the Demilitarized Zone, reaffirms the 17th parallel as a provisional demarcation line, and calls for eventual North-South negotiations toward facilitating civilian movement across the DMZ and toward peaceful reunification.

2. The Communists have raised no allegations of GVN violations of this article.

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ARTICLE 16

1. This article establishes the Four-Party Joint Military Commission and its responsibilities for implementing the agreement during the first 60 days, and continuing responsibilities for information about missing and dead.

2. This commission is no longer in existence except for the team on missing and dead, and no violations of the article are among current Communist charges.

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ARTICLE 17

1. This article concerns the creation of the Two-Party Joint Military Commission (JMC) and its role in enforcing the cease-fire agreement. Further elaboration of its role is contained in Articles 11-18 of the Protocol on the Cease-Fire that cover:

- central, regional, and local deployment of teams;
- operating procedures, including cooperation with the ICCS;
- full protection for the commission by the parties to the agreement, including the extension of privileges and immunities accorded diplomatic missions; and
- facilities and logistic support.

2. Charges:

a. The GVN has kept the Communist delegates in poorly-equipped concentration camps at Tan Son Nhut and elsewhere.

Facts: The government has housed the PRG representatives in spartan, usually isolated quarters at Tan Son Nhut (Camp Davis) and My Tho, and has, until recently, restricted access to the PRG representatives by reporters as well as by the public.

Comment: These restrictions were imposed in order to keep the Viet Cong from acquiring legal status in Saigon or other GVN areas, and to minimize their contacts among the workaday South Vietnamese public. Nonetheless, the GVN have the problem and obligation of protecting the Communist delegates.

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b. The GVN has harassed the Communist delegates and prevented the JMC from performing its functions.

Facts: The authorities encouraged, and in some cases organized, over 40 demonstrations against the PRG (and DRV while still in country) delegations at sites outside of Saigon during the early days of the agreement. Such harassment has fallen off in recent weeks, however, notably following the disorderly demonstrations in mid and late February that resulted in some injuries to DRV personnel in Hue.

Comment: In the earlier weeks, the PRG repeatedly charged that the GVN deliberately targeted pick-up sites designated for PRG delegates, and in so doing has effectively prevented PRG deployment to regional and provincial sites. The GVN may have initially authorized some military harassment of PRG troops designated for JMC membership, although there has been no confirmation of such charges. In some instances, the Communists deliberately designated pick-up points in areas under GVN control, and the GVN reacted to such gambits as territorial intrusions. South Vietnam's Joint General Staff on 3 March issued an order to field commanders to guarantee the security of and provide adequate quarters for the Communist delegations, which has resulted in a reduction of purported incidents.

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c. The GVN has denied the Communist JMC personnel freedom of movement and other "privileges and immunities," as stipulated in the 11 points worked out for the Four-Party JMC.

Facts: The GVN agreed, on 20 April, to apply some of the 11 points--generally concerning privileges and immunities, security, press and ICCS contacts, and logistic/transport support--"temporarily" to the Two-Party Commission. They have refused, however, to accept PRG rights to contact diplomatic missions (point 5), display PRG signs and insignia (point 8), or to conduct liaison trips between Saigon and the regions (point 11).

Comment: There is little doubt that initial GVN support of the Communist delegations was totally inadequate. The support situation has greatly improved, particularly in terms of logistics and press contacts, and has not been an issue in some time. It is clear, however, that the GVN is not going to loosen up on its remaining restrictions unless convinced this would be to GVN advantage, or unless it sees similar efforts by the Communists--such as a relaxation of restrictions on entry and exit controls of the several border checkpoints held by the Communists.

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ARTICLE 18

1. This article provides for the International Commission on Control and Supervision and outlines the Commission's duties.

2. No specific violations of the article have been alleged.

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ARTICLE 19

1. This article provides for an International Conference of 13 nations, plus the UN Secretary General, to be convened 30 days after the signing of the Agreement to serve as an international guarantor of the Agreement.

2. Such a conference has been held wherein all parties agreed to the provisions outlined in the article. No specific violations of the article have been alleged.

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ARTICLE 20

1. This article deals with Cambodia and Laos, and calls for strict respect of independence and sovereignty of both under the Geneva agreements of 1954 and 1962, an end to all military activities on Cambodian and Lao territory, withdrawal of all foreign military personnel and war materiel, and settlement of internal problems by the peoples themselves without foreign interference.

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ARTICLE 21

1. The article anticipates a period of reconciliation between the US and the DRV and calls for a US contribution to reconstruction in the DRV.

2. Charges: The Communists have protested the US suspension of economic talks in Paris, and have accused the US of a host of other acts, such as interference and neo-colonialism, which inhibit reconciliation.

Facts: The US suspended the talks because of violation of the agreement by the Communist side.

3. Comment: The suspension itself does not appear to be a direct violation of Article 21, except in spirit. The article does not set any modalities or deadlines for US contributions to healing war wounds or to reconstruction, or for reconciliation.

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ARTICLE 22

1. By virtue of its position as the concluding substantive article of the agreement, enforcement of this article depends on the adherence by all parties to the previous articles and their protocols, and violations are not applicable.

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